

## **CITY OF HOMER**

### **Regulations Concerning Public Record Inspections**

**(Revised January 1, 2011)**

## **1. Fees**

**1.01 Copies.** The fee for copying public records will be the city's standard copying fee. At this time the standard fee for documents is \$ .25 per page, electronic transmission is \$1 per page (Scanned PDF document).

See the city's fee schedule for the fees for copies of audio cassettes, video cassettes, and other items.

**1.02 Certified Copies.** The fee for a certified copy of a document will be the city's standard certification fee plus the standard copying fee. At this time the certification fee is \$10 per document. Only the city clerk or deputy city clerk will certify documents.

**1.03 Production Fee.** If the production of records for one requestor in a calendar month exceeds five-person hours, the requestor must pay a production fee. The production fee will be the city employee's actual salary plus benefit costs for the time required during the month to search, review, and copy the records. The time for review includes the time spent to examine the records for the purposes of determining whether the document is responsive to the request and whether the document will be disclosed or whether it must be withheld based on privilege, exemption, or other exception. The production fee will be in addition to the standard copying fee.

**1.04 Estimate and Advance Payment.** If a production fee is required or anticipated under the preceding paragraph, the city staff will prepare an estimate of the production fee and copying fee that are expected to result from producing the requested records. The requestor must deposit the estimated production and copying fees in advance of the search. If the actual production and copying fees are less than the estimate, the requestor will be given a refund of the difference. If the actual production and copying fees are greater than the estimate, the records will not be released to the requestor until the requestor pays the difference.

**1.05 Inspection Only.** There will be no fee for simple inspection of records, except when the production of the records for inspection by one requestor in a calendar month exceeds five person-hours. In that case the requestor will be required to pay the production fee as described in the preceding paragraphs.

**1.06 Indigency.** If a person is unable to pay a fee, and signs an affidavit to the effect that he or she is indigent, then the city manager will waive the copying fee and production fee, except when the city manager, based upon reliable information, determines the affidavit of indigency is made in bad faith or fraudulently.

Annual Income as a Percent of current Health and Human Services (HHS) Poverty Guidelines for Alaska	Percent of fee reduced
1-100%	100% Waiver
101-149%	75% Waiver
150-174%	50% Waiver
175-199%	25% Waiver
200% plus	No Waiver

An application for indigency may be filed with the City Manager for waiving or partially waiving the costs of record reproduction. The City Manager may allow an applicant, who qualifies as an indigent, a reduced record reproduction fee, a payment plan or a waiver of the filing fee where the Manager is able to make a written finding, based on information provided by the applicant, that payment of the record reproduction fee would be a financial hardship. Based upon the information provided, the fee may be reduced or waived in accordance with the above scale.

## **2. Requirements for Public Record Requests; Approvals and Denials**

**2.01 City Manager Approval.** According to Homer City Code Section 1.80.060, all requests for public information or records are to be approved by the city manager. The city manager, or the manager's designee, will, consistent with the orderly conduct of city business, make a good faith and diligent effort to provide a rapid and intelligible response to requests for inspection of records.

**2.02 Routine Requests.** Routine requests for inspection or copying of records may be approved (but not denied) and responded to by the city clerk, deputy city clerk, or the department head of the department in which the records are located. They may act as the city manager's designee for the approval of routine requests. For purposes of these regulations, a routine request is a request for records that are clearly to be made available to the public, and which can be responded to quickly without a substantial amount of effort or time by the city staff. Routine requests may be submitted orally or in writing.

**2.03 Non-routine Requests.** Non-routine requests for inspection or copying of records must be made in writing and referred to the city manager for approval or disapproval. Non-routine requests include, but are not limited to, requests for records that are or might be exempt from disclosure, requests that will or might be denied for any

reason, requests that will take more than one person-hour of staff time to respond, and requests from a person involved in litigation with the city.

**2.04 Litigation Disclosure Requests.** A person "involved in litigation" means a party to a lawsuit involving the city, a person representing a party in a lawsuit, or a person requesting records on behalf of a party to a lawsuit. If the city manager, based on reliable information, determines that a request for inspection or copying is being made by or on behalf of an person involved in litigation, the city manager may deny the request and require that the request be processed in accordance with applicable court rules under Homer City Code Section 1.80.055.

**2.05 Aggregation of Certain Requests.** If the city manager, based on reliable information, determines that one or more individuals have made one or more requests for public records on behalf of another person or group for the purpose of dividing a request into smaller parts to avoid the payment of a production fee (for production of records requiring more than five person-hours of staff time per month), the city manager will aggregate all such requests and treat them as one request made by one person.

**2.06 Bad Faith Affidavit of Indigency.** If the city manager, based on reliable information, determines that a person has made an affidavit of indigency in bad faith or fraudulently for the purpose of avoiding payment of production, copying, or other fees, the city manager will deny the waiver of the fees.

**2.07 Harassment Requests.** If the city manager, in good faith, reasonably determines that a request for copies or inspection of records is not made in good faith and is made for the purpose of harassment of the city or city officials, or to purposely interfere with the orderly conduct of city business, the city manager will deny the request. Such a determination will be made only after notice and an opportunity for the requestor to be heard by the city manager.

**2.08 Description of Records Requested.** A requestor must describe the records sought in sufficient detail to enable the city to locate and identify the records sought. If the records are described by the requestor in general terms, the city staff shall attempt to communicate with the requestor to identify the records requested and lessen the administrative burden of processing an overly broad request. If the request is not sufficient to allow the staff to identify the requested records, the requestor shall be notified promptly that the request cannot be approved or processed until a sufficient description of the records is received.

**2.09 Deliberative Process Records.** There is a recognized need to encourage open, frank discussions among government officials about proposed or contemplated governmental action. Disclosure of official deliberations will inhibit those discussions, invade the mental processes of government officials, and adversely affect the quality of administrative decision making. Records containing deliberative process information are confidential and need not be disclosed. Accordingly, requests for internal, pre-decisional records that are deliberative in nature will be denied unless the city manager determines

the requestor has established that, on balance, the interest of the public in having access to the records outweighs the interest of the public in having city business carried on efficiently and without unreasonable interference.

### **3. Time and Place of Inspection**

**3.01 Routine Requests.** A routine request for records will be responded to promptly at the office where the records are kept, or another city office if more convenient to the city, during business hours at a time that does not interfere with the orderly conduct of city business. If the records cannot be produced within two working days, the requestor will be advised.

**3.02 Non-routine Requests.** Records in response to an approved non-routine request will be made available for inspection or copying at city hall, under the direction of the city manager or the city manager's designee. For the convenience of the city, the city manager may designate an inspection location elsewhere in the city. The time for inspection will be during business hours. The city manager will advise the requestor of the specific time and date on which the inspection may occur. If, and to the extent, necessary to maintain the orderly conduct of city business, the city manager may limit the days and hours when inspection and copying of public records may occur.

**3.03 Large Requests.** If a request is made for inspection or copying of a large volume of public records, the city manager may require the requestor to make a written designation of the order in which the requestor wants the records produced. When such order is designated by the requestor, the city will attempt to produce the records in that order. Requests for inspection or copying of a large volume of public records, or requests that will require the city to search or review a large volume of public records, will be responded to as city staff time permits. The orderly conduct of city business will not be interrupted to make fast response to such a request. It is reasonable that the maker of such a large request should expect an extended time for response. The city manager will advise the requestor of the estimated time in which the response will be made.

### **4. Form of Records Produced**

**4.01 Form of Records.** The records of the city will normally be made available for inspection or copying in the format in which the city maintains or disseminates the records. Exact reproduction is not required, but any alteration of the form or medium of public records must not change the substantive content of the information, and if the actual content is changed, the nature of the change and the reason for the change will be communicated to the requestor.

**4.02 Summarization or Manipulation of Records.** The city is not required to compile or summarize its records in response to a request for information. The city is not required to manipulate its data to create new records in response to a request for information.

**4.03 Partially Disclosable Records.** If public records contain information that is disclosable in part and nondisclosable in part, the nondisclosable information shall be removed prior to disclosure.

## **5. Written Determinations and Appeals**

**5.01 Written Response.** If the city manager makes an adverse determination, in whole or in part, to a written public records request, the city manager will provide a written response setting forth the adverse determination. It will include a description of the records requested, a description of the records that will not be provided, and the reasons for the adverse determination, including reference to provisions of law or regulations, facts, and other information relied upon. The city manager's written response will also include a notice that the requestor has a right to appeal to the city council.

**5.02 Response to Oral Requests.** Oral requests may be accepted for a routine request. Oral requests for records will not be accepted for a non-routine request or receive a written response from the city manager unless the requestor is unable to make a written request because of inability to write or because of mental or physical disability. In that case, the city staff will assist the requestor in making a request that will be responded to and treated as a written request for all purposes under these regulations.

**5.03 When No Response Is Deemed Denial.** If the requestor receives no response to a written request for records within five working days of making that request, the requestor may file with the city clerk a written demand for a written response from the city manager. If the city manager does not give a written response to that demand within three working days of the city clerk's receipt of the demand, the request for records will be deemed denied.

**5.04 Appeal to City Council.** A denial, in whole or in part, a deemed denial, or any adverse written determination by the city manager in response to a written request for public records may be appealed by the requestor to the city council under Homer City Code Section 1.80.070.

**5.05 Appeal to Superior Court.** A decision of the city council on an appeal from a decision of the city manager may be further appealed to the superior court. Such an appeal must be made under the court rules of procedure governing appeals to the superior court.

Date:  
Walt Wrede  
City Manager